



(Billing Code 5001-06-P)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 202

RIN 0750-AH81

Defense Federal Acquisition Regulation Supplement: Contracting Activity Updates (DFARS Case 2012-D045)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the definitions of "contracting activity" and "departments and agencies" found at DFARS subpart 202.101.

DATES: Effective Date: [Insert 30 days after date of publication in the FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Ms. Lesa Scott, telephone 571-372-6104.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule updates the list of contracting activities and moves the list to the DFARS Procedures, Guidance, and Instruction (PGI) at 202.101. The reorganization of DFARS

202.101 will facilitate the rapid updating of contracting activities as organizational changes occur. This final rule—

- Revises the definition of “contracting activity” at DFARS 202.101 by removing the list of contracting activities;
- Inserts a pointer at DFARS 202.101 to direct readers to PGI 202.101 for the list of contracting activities that have been delegated broad authority regarding acquisition functions;
- Adds the updated list of contracting activities to the PGI at 202.101; and
- Updates the definition of “departments and agencies.”

II. Publication of this final rule for public comment is not required by statute

“Publication of proposed regulations”, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because

it merely updates and moves the list of contracting activities from DFARS 202.101, Definitions, to a new DFARS PGI section at 202.101, Definitions. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1, and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 202

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 202 is amended as follows:

PART 202—DEFINITIONS OF WORDS AND TERMS

1. The authority citation for 48 CFR part 202 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

2. Section 202.101 is amended by—

- a. Revising the "contracting activity" definition; and
- b. Revising the "departments and agencies" definition.

The revisions read as follows:

202.101 Definitions.

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Contracting activity for DoD also means elements designated by the director of a defense agency which has been delegated contracting authority through its agency charter. DoD contracting activities are listed at PGI 202.101.

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Departments and agencies, as used in DFARS, means the military departments and the defense agencies. The military departments are the Departments of the Army, Navy, and Air Force (the Marine Corps is a part of the Department of the Navy). The defense agencies are the Defense Advanced Research Projects Agency, the Defense Commissary Agency, the Defense Contract Management Agency, the Defense Finance and Accounting Service, the Defense Information Systems Agency, the Defense Intelligence Agency, the Defense Logistics Agency, the Defense Security Cooperation Agency, the Defense Security Service, the Defense Threat Reduction Agency, the Missile Defense Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the United States Special Operations Command, and the United States Transportation Command.

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